

STATE OF WISCONSIN  
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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**GENERAL TEAMSTERS LOCAL 662**, Complainant,

vs.

**TAYLOR COUNTY**, Respondent.

Case 77  
No. 56418  
MP-3419

**Decision No. 29652-B**

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Appearances:

Previant, Goldberg, Uelmen, Gratz, Miller & Brueggeman, S.C., by **Attorney Andrea F. Hoeschen**, 1555 North Rivercenter Drive, Suite 202, P. O. Box 12993, Milwaukee, Wisconsin 53212, appearing on behalf of General Teamsters Local 662.

Ruder, Ware & Michler, S.C., by **Attorney Jeffrey T. Jones**, 500 Third Street, P.O. Box 8050, Wausau, Wisconsin 54402-8050, appearing on behalf of Taylor County Sheriff's Department.

**ORDER HOLDING COMPLAINT IN ABEYANCE**  
**PENDING CONCLUSION OF JUDICIAL PROCEEDINGS**

On April 17, 1998, General Teamsters Local 662 filed a complaint with the Wisconsin Employment Relations Commission alleging that Taylor County was violating Sec. 111.70(3)(a)5, Stats., by refusing to arbitrate a grievance arising out of an employee discharge.

On July 7, 1998, the County filed an action in Taylor County Circuit Court (Case No. 98-CV-49) seeking a declaratory judgment that Sec. 59.26(8)(b)(6), Stats., is the exclusive avenue for review of the discharge and thus that the County had no obligation to arbitrate the grievance.

The complaint was then held in abeyance.

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On May 18, 1999, Taylor County Circuit Court Judge Fox concluded that Sec. 59.26(8)(b)(6), Stats., is the exclusive avenue for review of the discharge. Local 662 subsequently filed a motion for reconsideration and relief from judgment based on the Court of Appeals decision in EAU CLAIRE COUNTY V. GENERAL TEAMSTERS UNION LOCAL NO. 662, CASE NO. 98-3197.

On August 5, 1999, Judge Fox granted the Union's motion.

Based on the EAU CLAIRE decision and the status of Case No. 98-CV-49, Local 662 asks that the Commission proceed to decide the complaint.

By letter dated August 11, 1999, the County advised us that it would be filing an appeal from Judge Fox's decision; that the Wisconsin Supreme Court has been asked to accept a petition for review in the EAU CLAIRE COUNTY case; and that it believes the complaint should continue to be held in abeyance.

We have considered the matter and conclude that it is appropriate to continue to hold the complaint in abeyance.

NOW, THEREFORE, it is

**ORDERED**

The complaint is held in abeyance pending the conclusion of judicial proceedings in the Case No. 98-CV-49.

Given under our hands and seal at the City of Madison, Wisconsin this 7th day of September, 1999.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James R. Meier /s/

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James R. Meier, Chairperson

A. Henry Hempe /s/

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A. Henry Hempe, Commissioner

Paul A. Hahn /s/

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Paul A. Hahn, Commissioner

**MEMORANDUM ACCOMPANYING ORDER HOLDING COMPLAINT IN  
ABEYANCE PENDING CONCLUSION OF JUDICIAL PROCEEDINGS**

The background of this matter has already been set forth.

As a matter of comity, where the same dispute is pending both in the courts as well as before the Wisconsin Employment Relations Commission, we will not proceed unless the court declines to exercise its jurisdiction. PIERCE COUNTY, DEC. NO. 16067 (WERC, 1/78); MCEWEN V. PIERCE COUNTY, 90 WIS.2D 256 (1979).

Here, the courts have exercised jurisdiction over the dispute and we therefore will hold the complaint in abeyance pending the outcome of Case No. 98-CV-49.

Dated at Madison, Wisconsin this 7th day of September, 1999.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James R. Meier /s/

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James R. Meier, Chairperson

A. Henry Hempe /s/

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A. Henry Hempe, Commissioner

Paul A. Hahn /s/

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Paul A. Hahn, Commissioner

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